

REMARKS

New method claims 27 and 28 have been added.

Applicant's undersigned representative has no record of the examiner having telephoned on or about December 19, 2007 to make a requirement for restriction. Nevertheless, applicant elects the subject matter of claims 22-26 for further prosecution of this application, with traverse and while reserving the right to file one or more divisional applications with respect to non-elected subject matter.

Applicant traverses the requirement for restriction on the ground that the method specified in claim 14 (and the new claim 27) requires use of the apparatus that is defined in claim 22.

The examiner has rejected claims 22-26 under 35 USC 112, second paragraph, as being indefinite. Applicant has amended the claims and it is believed that the claims now of record are not open to rejection under 35 USC 112, second paragraph.

The examiner has rejected claims 22-26 on the ground of anticipation by WO '211. Claim 22 has been amended to specify that the cooker portion has an inlet for coffee powder. Such an inlet is implied by, for example, the first paragraph on page 6 of the specification, which states that in accordance with the espresso method concentrate is extracted from a coffee powder, and claim 14, which specifies that the apparatus contains a cooker portion for making coffee by the espresso method. Thus, these passages taken together show that coffee powder must be introduced into the cooker portion in order for the cooker portion to make coffee by the espresso method.

WO '211 discloses a heating device for receiving ready-made coffee concentrate, for heating the coffee concentrate and maintaining its temperature, and for mixing the concentrate with milk. The heating device disclosed by WO '211 has no inlet for coffee powder nor any cooker portion for preparing the coffee

concentrate. Applicant submits that, so far as relevant to the claims under examination, WO '211 discloses only a boiler for heating water.

In view of the foregoing, applicant submits that claim 22 is not anticipated by WO '211. Therefore, the rejection of claims 22-26 should be withdrawn and the claims should be allowed.

Respectfully submitted,

/John Smith-Hill/

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Applicant arguments/remarks made

in an amendment